



505 Van Ness Avenue
San Francisco, California 94102
Tel: 415-703-2381
Fax: 415-703-2057
<http://publicadvocates.cpuc.ca.gov>

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VIA ELECTRONIC MAIL

Caroline Thomas Jacobs, Director
Wildfire Safety Division
California Public Utilities Commission
San Francisco, CA 94102
Wildfiresafetydivision@cpuc.ca.gov

Subject: Comments of the Public Advocates Office on the Wildfire Safety Division's Proposed Changes to the 2021 Safety Certification Guidance Pursuant to Public Utilities Code § 8389(f)(2)

INTRODUCTION

Pursuant to the Wildfire Safety Division's (WSD) guidance in the May 11, 2021 *Wildfire Safety Division's Proposed Changes to the 2021 Safety Certification Guidance Pursuant to Public Utilities Code § 8389(f)(2)* the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) submits these comments.

Cal Advocates generally supports the WSD's proposed changes to the safety certification process, and provides the following comments:

- A. The WSD should clarify the proposed definition of "good standing" with additional criteria; and
- B. The WSD should clarify its proposal for a "public process" for approving executive compensation proposals.

Improving the clarity of the Safety Certification Guidance in these two areas would benefit all stakeholders by creating guidelines that are easier to understand and to implement.

BACKGROUND

Public Utilities Code Section 8389 directs the WSD to issue safety certifications to electric utilities that meet certain requirements. The purpose of safety certifications is to ensure that each investor-owned utility¹ demonstrates a commitment to safety throughout its organization,² especially with respect to wildfire risks.³ On May 11, 2021 the WSD proposed changes to the timeline and criteria for the issuance of safety certifications in 2022.⁴

RECOMMENDATIONS

Cal Advocate is generally supportive of the guidelines as a positive step towards standardizing the review of annual utility requests for safety certification. Setting a standard timeline and clear criteria for determining whether the requirements of Public Utilities Code Section 8389 have been met will benefit both the utilities and stakeholder parties. However, several areas of the proposed guidelines are unclear and would benefit from additional explanation of WSD's proposed criteria.

A. The WSD should clarify the proposed definition of “good standing” with additional criteria.

The WSD proposes to use two sets of criteria to determine if a utility is in “good standing:”⁵ participation in the WSD safety culture assessment process, and “other criteria.”⁶ In describing these other criteria, the WSD states:

The WSD is proposing additional criteria to consider when deciding whether an electrical corporation is in good standing. For example, the WSD might take it into account if an electrical corporation is found by CAL FIRE to have caused a catastrophic wildfire and the WSD finds that the electrical corporation was not in compliance with all relevant WMP initiatives at the time. *(footnote omitted)*⁷

¹ Many of the Public Utilities Code requirements relating to wildfires apply to “electrical corporations.” See, e.g., Pub. Utils. Code § 8386. These comments use the more common term “utilities” and the phrase “electrical corporations” interchangeably to refer to the entities that must comply with the wildfire safety provisions of the Public Utilities Code.

² Pub. Utils. Code §§ 8389(e)(1)-8389(e)(7).

³ Pub. Utils. Code §§ 8389(e)(1), 8389(e)(7).

⁴ WSD Proposed Changes to 2021 Safety Certification Guidance, May 11, 2021.

⁵ Pub. Utils. Code § 8389(e)(2) (“The electrical corporation is in good standing, which can be satisfied by the electrical corporation having agreed to implement the finds of its most recent safety culture assessment, if applicable”).

⁶ WSD Proposed Changes to 2021 Safety Certification Guidance, p. 5.

⁷ WSD Proposed Changes to 2021 Safety Certification Guidance, p. 5.

The WSD provides a single example of an additional criteria which “may” be considered but appears to leave the determination of “good standing” largely up to the WSD’s discretion. It is further unclear how the WSD defines “out of compliance” in the example above. The WSD should identify specific criteria, such as the finding of fault by a state agency, a significant number of inspections that did not meet internal utility targets, violations of rules and requirements of the California Public Utilities Commission (Commission), or violations of General Orders.

B. The WSD should clarify its proposal for a “public process” for approving executive compensation proposals.

The WSD states that for future years, it “will be proposing a public process to determine how to advance the Executive Compensation structures in the future to prioritize safety and ensure both public safety and electrical corporation financial stability” as required by law.^{8,9,10} However, WSD’s proposal does not elaborate further on the nature or timeline of its proposal to develop this public process. Creating a formal timeline for the consideration of executive incentive compensation structures as soon as possible would be clearly beneficial. Currently, the electrical corporations have submitted their executive compensation plans in January of this year, but there has been no determination to date approving the executive incentive compensation structure in the plans. While the electrical corporations and stakeholders may differ in their understanding for how these packages should be structured, the long delay between proposal and approval in 2021 benefits no one.

The WSD should provide additional detail to stakeholders on the public process. This should include a clear timeline which will allow for approval of an executive incentive compensation structure on a timely basis, and which provides for robust consideration of stakeholder input. For the 2022 and future reviews, the process should start this year, in order to avoid a gap between the start of the year and the adoption of clear standards for executives to meet for that year. The guidelines proposed by the WSD would benefit from providing more detail on the public process, including a timeline for submission and approval of proposals.

CONCLUSION

Cal Advocates respectfully requests that the Wildfire Safety Division adopt the recommendation clarifications discussed herein.

⁸ WSD Proposed Changes to 2021 Safety Certification Guidance, p. 6.

⁹ Public Utilities Code Sections 8389(e)(4) and 8389(e)(6) specify the safety certification requirement regarding executive incentive compensation structures.

¹⁰ It should be noted that the Legislature is currently considering a bill, Assembly Bill 1156, which would keep responsibility for approving executive incentive compensation structures with the Commission, and explicitly allow the Commission to reject or modify the structures.

Sincerely,

/s/ **NATHANIEL W. SKINNER**
Nathaniel W. Skinner, PhD
Program Manager, Safety Branch

Public Advocates Office
California Public Utilities Commission
505 Van Ness Ave
San Francisco, CA 94102
Telephone: (415) 703-1393
E-mail: Nathaniel.Skinner@cpuc.ca.gov

Cc: Service List of R.18-10-007
wildfiresafetydivision@cpuc.ca.gov